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International Convention on
the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Sixtieth session
4-22 March 2002

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the Elimination of Racial Discrimination*

Austria

1. The Committee considered the fourteenth periodic report of Austria (CERD/C/362/Add.7) at its 1502nd and 1503rd meetings (CERD/C/SR.1502 and 1503), held on 7 and 8 March 2002, and at its 1520th meeting (CERD/C/SR.1520), on 21 March 2002, adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the updating report presented by the Government of Austria, which focuses on the recommendations made by the Committee in its previous concluding observations (CERD/C/304/Add.64, dated 7 April 1999). The Committee also welcomes the regularity of the State party's submission of periodic reports.

* Please note that the symbol CERD/C/Session No./CO/... will from now on replace the previous symbol CERD/C/304/Add...

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B. Positive aspects

3. The Committee welcomes recent developments that have taken place in the field of human rights in Austria. It notes in particular the establishment in July 1999 of the Human Rights Advisory Council, an independent body with a mandate to review and monitor the activities of the law enforcement organs in accordance with human rights principles, as well as the establishment of the posts of human rights coordinator at the Austrian federal ministries and the governments of the nine Austrian Länder.

4. It notes with satisfaction the establishment of the Immigrants Fund to assist new immigrants by providing free advice in their native language on questions concerning their integration in Austria.

5. It notes also the continuation of the work of the Reconciliation Fund for Victims of National Socialism which so far has received and approved some 50,000 applications for compensation from persons who were subjected to forced labour during the Nazi era.

6. The Committee notes the inclusion of provisions aimed at combating racism and xenophobia in national legislation, such as the Industrial Code, the Maintenance of Law and Order Act and media law, in particular the Broadcasting Act and the Regional Radio Act.

7. The Committee further notes with approval the efforts undertaken by the State party to safeguard linguistic diversity in the country, including the adoption of bilingual topographical signs in areas inhabited by Croat and Hungarian minorities.

8. The Committee welcomes the fact that Austria recently made the declaration under article 14 of the Convention recognizing the competence of the Committee to examine communications from individuals or groups of individuals.

C. Concerns and recommendations

9. The Committee is concerned at the wording of article 1, paragraph 1, of the Federal Constitutional Act implementing the Convention, which stipulates that the legislature and the executive shall refrain from any distinction on the "sole" ground of race, colour, or national or ethnic origin. In the Committee's view, this may be regarded as representing a narrower prohibition of discrimination than is provided in the Convention. The Committee recalls that multiple discrimination, for example discrimination based simultaneously on race and sex, falls within the scope of the Convention, and that such phenomena are addressed in the final documents of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Therefore, while noting that an amendment to this provision is currently under consideration, the Committee reiterates its previous invitation to the State party (CERD/C/304/Add.64, para. 11) to consider the possibility of deleting the word "sole" from article 1, paragraph 1, of the Federal Constitutional Act, taking into consideration general recommendation XXV of the Committee.

10. Concerning articles 2 and 4 of the Convention, the Committee is of the view that the legislation in place to combat racism is not totally adequate to combat discrimination effectively. While noting the existence of provisions in criminal legislation aimed at combating racism, as well as recognizing racist or xenophobia motivations as aggravating circumstances for crimes, the Committee reiterates its recommendation (ibid, para. 11) to the State party to introduce general legislation prohibiting racial discrimination in all its forms.

11. The Committee has difficulty in understanding the distinction made by the State party between autochthonous and other minorities and the legal and practical consequences following from this. The Committee invites the State party to provide further clarification in this regard in its next periodic report.

12. The State party's traditional respect for individual privacy when collecting information on the ethnic composition of the population is noted. However, the Committee expresses concern about the paucity of data at its disposal for monitoring the implementation of the Convention. The Committee wishes to emphasize that it is of fundamental importance to establish basic statistics that indicate how minorities are integrated into society, and invites the State party to find ways to provide such data in its next periodic report, including the percentage of minorities in the workforce and various governmental and private-sector institutions.

13. The Committee is concerned about the significant number of allegations which have been brought to its attention which reflect the existence of racist and xenophobic attitudes among some sections of the population. It is further concerned about allegations of racist incidents involving police officers and other State employees. In the light of general recommendation XIX, the Committee encourages the State party to continue to monitor all tendencies which may give rise to racial or ethnic segregation and to endeavour to combat the negative consequences of such tendencies. The Committee further recommends that the State party strengthen existing educational measures for civil servants who deal with issues involving foreigners. Efforts should be made to recruit more members of minority groups into the public administration, in particular law enforcement.

14. The Committee is concerned at the considerable number of asylum-seekers without identity documents who have been denied public assistance from the Federal Care and Maintenance Programme and who must therefore rely on private assistance and other agencies for survival. The Committee recommends that the State party ensure the provision of basic and equal assistance to all asylum-seekers, without distinction as to race or ethnic and national origin.

15. The Committee also reiterates its appeal to the State party to ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

16. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations on them be similarly publicized. It encourages the State party to insert the Committee's concluding observations on the appropriate ministry's web site.

17. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level.

18. The Committee recommends that the State party submit its fifteenth periodic report jointly with its sixteenth periodic report, due on 8 June 2003, that it be an updating report, and that it address the points raised in the present observations.